THE HON'BLE SRI. JUSTICE GODA RAGHURAM

And

THE HON'BLE SRI JUSTICE M. VENKATESWARA REDDY

W.P.No. 8982 of 2006

02-05-2006

Between:-

Smt. V. Chandrakala

Petitioner

And

The Commissioner of Police, Cyberabad, Police Commissionerate, Lakdikapool, Hyderabad and two others.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

And

THE HON'BLE SRI JUSTICE M. VENKATESWARA REDDY

W.P.No. 8982 of 2006

Oral order: (Per: The Hon'ble Sri Justice Goda Raghuram)

This writ petition is filed seeking a writ of Habeas Corpus for invalidation of the illegal detention of the petitioner's husband since 12-04-2006.

The Inspector of Police, Hayatnagar Police Station, Cyberabad, the 3rd respondent, has filed a counter affidavit. Counter states as under:

> "*3. I submit that on 5-4-2006, one Gorige Mallesh Yadav, son of Jangaiah, R/o. R. Krishnaiahnagar, Tattiannaram village, Hayathnagar Mandal came to our Police Station and lodged a complaint stating that when he attended the calls of nature, he noticed one unknown male dead body in a well. Thereafter he along with other villagers went to*

the well and observed that both the hands and legs are tied up. He further stated that some unknown persons might have murdered and dumped the body into the well. He requested the police to take necessary action in the matter. Basing on the said complaint, a case in crime No. 173 of 2006 under Section 302 IPC was registered and took up investigation. During the course of investigation, I have collected the evidence by examining the complainant and other witnesses and recorded their statements. I also visited the scene of offence and conducted the scene of offence panchanama. The scene of offence is an agricultural well in survey No. 26 situated near R. Krishnaiah Nagar within the limits of Tattiannaram village. The body was removed from the well and conducted inquest over the dead body in the presence of the mediators and subjected the body of the deceased to post mortem examination to know the actual cause of death. After the post mortem examination, the body has been preserved at mortuary for identification. I have flashed VHF and Radio Messages to all the Station House Officers of both the Commissionerates of Hyderabad and Cyberabad. The photographs of the deceased were published in all the leading news papers.

4. I submit that while the matters stood thus, on seeing the photograph of the deceased in the news papers, the wife of the deceased Vallapu Yadamma approached me along with others and identified the clothes and photographs of the deceased. She stated that on 04-04-2006 her husband Sathaiah left their house to Hyderabad for collecting hand loan of Rs.10,000-00 from one Jangaiah and did not return home. On 12-04-2006 her son approached Kothur Police of Mahaboobnagar district and lodged a complaint about the missing of his father and on the basis of the said complaint, a case in crime No. 97 of 2006 under the Head 'Man Missing' registered. Further she stated that her husband Sathaiah and his brother Anjaiah (alleged detenu herein) were having disputes regarding the property upon which she strongly suspects the involvement of the said Anjaiah in this regard.

5. I submit that during the course of investigation it came to the light that the alleged detenu along with others have committed the above said offence. On receipt of reliable information, on 26-04-2006 at 15-00 hours I have taken the alleged detenu (accused No.1) and accused Nos. 2 and 3 in the above crime i.e., Vallepu Anjaiah, Dandugula

Yadagiri and Vallepu Jangaiah into custody at the house of V. Jangaiah (A.3) situated at Bandlaguda and brought them to the Police station and interrogated them thoroughly. During the interrogation, the accused have admitted their guilt. The accused No.1 (alleged detenu herein) confessed that the deceased Sathaiah is his brother. Since 1990 he is residing at Dubai for his livelihood. Frequenstly he used to send money to the deceased from Dubai. The decased Sathaiah has purchased Ac.2-00 of agricultural land with the amount sent by him while he was at Dubai. In addition to this he purchased Ac.1-00 in his name. Later disputes arose between them during the partition. In this connection a panchayat has been held in the presence of the village elders, but there was no amicable settlement between them. Upon which, he bore grudge over the deceased and decided to eliminate the deceased. In this connection he approached his nephew Dandugula Yadagiri (A.2) and their distant relative V. Jangaiah (A.3) and engaged A.4 to A.7 to eliminate the deceased. Accordingly, they eliminated the deceased and threw the dead body into the well. The factum of arrest of the alleged detenue, accused 2 and 3 was intimated to their relative one Srinivas, r/o Bandlaguda. On 27-04-2006 the alleged detenue (A.1) and accused Nos. 2 and 3 were produced before the learned II-Metropolitan Magistrate, L.B. Nagar, Hyderabad (who is the incharge of VII-Additional Metropolitan Magistrate, Hayatnagar, Hyderabad) and the learned Magistrate remanded them to judicial custody. Pursuant to the order of remand, the accused are lodged at Central Prison, Cherlapally, R.R. district. The other accused in the above crime i.e., accused Nos. 4 to 7 are absconding. It is further submitted that as per the investigation and evidence collected so far, it is well established that the accused Nos. 1 to 7 are fully responsible for the said offence punishable under Section 302 and 109 IPC.

6. In reply to para-2 of the affidavit, it is submitted that the allegation that on 12-04-2006 at about 6-00 P.M. to constables from the 2nd respondent police station came to the residence of the petitioner and took away the alleged detenue stating that the 2nd respondent required some information from the alleged detenue regarding a criminal complaint lodged by one Smt. Yadamma is false and hereby denied. It is also equally false to state that since that day on wards the alleged detenue did not return

home. The further allegation that on 14-04-2006, the petitioner and her parents along with some village elders went to the second respondent and asked him regarding the whereabouts of the alleged detenu and the 2nd respondent informed her that the alleged detenu was handed over to the 3rd respondent in connection with a criminal case lodged against the alleged detenu is false and hereby denied. It is false to allege that the 3rd respondent did not choose to allow them to enter into the Police Station and declined to disclose the whereabouts of the alleged detenu. It is also false to state that they have approached the 2nd and 3rd respondents, we have not allowed them into the premises of the Police Stations and threatened with dire consequences. As stated above, the alleged detenu along with A2 to A7 has committed the murder of his brother as there were property disputes between them. The alleged detenu was taken into custody along with A2 and A3 on 26.4.2006 and they were produced before the learned Magistrate on 27.4.2006 and they are remanded to judicial custody. Pursuant to the order of remand, they are lodged in Central Prison, Charlapally. The alleged detenu herein was never kept in illegal custody as alleged by the petitioner, but he was arrested in connection with the above crime, as stated above, on 26.4.2006."

As the detenus are lodged in prison pursuant to due process of law, the writ petition is dismissed.

GODA RAGHURAM, J

M. VENKATESWARA REDDY, J

Dated: 02-05-2006

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